

PLANNING COMMISSION PUBLIC HEARING JUNE 25, 2008

ZT – 4 -2008

West Valley City

Food vending carts and vehicles

On March 18, 2008 (effective date March 24, 2008) the West Valley City Council enacted a moratorium on food vending carts. This was to allow time for City staff to investigate and examine how these uses impact the City, businesses and property owners and to review and draft applicable standards for food vending carts.

Currently the West Valley City code allows for food vending carts however very little standards apply to these uses. When the Code was first drafted most of the carts that were used were open-air carts and they were not being used year round. Therefore, a time limit was not placed on this use as it was typically self-regulating. However, the trend seems to be going more towards enclosed food carts, which can stay on a site all year round and making the use more permanent and not temporary as was originally intended.

After meeting with the West Valley City Fire Department, Building Inspection Department, Business Licensing, Code Enforcement and the Salt Lake Valley Health Department it was determined that some guidelines are necessary for this use if it is going to continue to be allowed.

Therefore, staff has drafted the attached ordinance for consideration.

Staff Alternatives:

Approval of the suggested amendments to the West Valley City Municipal Code with the following alternatives.

1. Definition

- Alternative A (vendor cannot stand or sit in any portion of the cart to conduct business)

-OR-

- Alternative B (equipment that is either manually pushed or pulled behind a vehicle)

2. Cap

- 1/10,000 residents = 12 permits

-OR-

- 1/7,000 residents = 17 carts

-OR-

- Alternative discussed at the Hearing

3. License

- Alternative A: Licenses for food vendors shall be valid from April 15-October 15 each calendar year.

-OR-

- Alternative B: Permits shall be subject to an annual business license renewal process.
4. Current licensed food vendors that can meet the requirements of the ordinance shall have the first right of refusal for licenses granted under this ordinance.

Continuance to allow staff more time to draft revisions to the proposed Ordinance

Applicant:

West Valley City

Neutral:

Russ Condie
WVC Business License

Neutral:

Ricardo Ramos
WVC Code Enforcement
English-Spanish Translator

Neutral:

Maria Santiago
4544 S. 4000 W.

Neutral

Marti Martinez

Neutral:

Jeff Mansell
9015 S. Canyon Square

Discussion: Jody Knapp presented the application. Phil Conder asked Jody to re-iterate the problems that are being solved by this change to the ordinance. Jody explained that the health and fire departments were raising concerns because West Valley City has very little to no standards for food vending carts and mobile food vending vehicles. The City is trying to become more aesthetically pleasing and improving the food vending carts will be a positive and helpful change. She added that City departments need guidelines so that these units can properly be enforced. Phil Conder asked if this ordinance would apply to school functions that sometimes utilize hot dog vending carts. Jody stated that these events are coordinated through the school district and do not go through West Valley City. Commissioner Conder questioned the vending carts at Home Depot. Jody replied that if these vending carts are inside the building it does not qualify. She stated that she doesn't know how these carts are allowed next to the building because they do not meet Fire Department regulations. She added that they may be approved with their conditional use or something else. Russ Condie, an employee of the City's business license department, clarified that the State regulates vending carts at school's. Phil Conder asked if this ordinance is following what the State's requirements are. Jody replied that it mostly likely does meet their ordinance assuming they have the same food handling requirements and don't have a separate code like the snow cone shacks. Russ added that the State Health Department and Salt Lake County regulate school functions and the State Fire Marshall conducts all the inspections. Commissioner Conder stated that West Valley City firefighters would respond in the event of a fire. Jason Jones asked if these regulations would apply to WestFest. Jody replied that carnivals, city center events, and outdoor concerts are addressed separately.

Marti Martinez, a vendor, stated that she understands the concerns of the City. She questioned if an interpreter was present because she feared many people in the audience were not understanding the things being said. Ms. Martinez explained that she is concerned with these changes because her livelihood depends on the success of her vending cart. She indicated that safety and health concerns are understandable and she would like to find a solution that benefits everyone.

Chairman Woodruff requested that Ricardo Ramos, a member of the code enforcement department, translate the various alternatives and changes that are being made to the

ordinance. Phil Conder asked if businesses would be required to pay for a spot on the waiting list. Jody replied that an applicant would simply have to apply for the business license and once they are awarded a spot they would still need to pay the fees associated with the application process. Brent Fuller questioned whether there would be a preference on the list for those who already have an existing business. Jody explained that everyone who currently owns a food vending cart will be given the opportunity to stay, even if the number is over the cap. In this event, no waiting list will be permitted unless the number of vending carts in the city falls below the cap.

Another vendor, Maria Santiago expressed concern about the spacing requirements between carts and questioned what will happen to the ones that are already closer than the proposed 500' or 1000' minimum. Jody replied that if the site is currently approved, all current vendors will be allowed to remain. This can be added to the motion for approval. Any new vendors added to the waiting list will need to meet the spacing requirement. Ms. Santiago questioned whether the other inspections would wait to take place until the license expires. She expressed concern about the professionally made trailer and asked if existing vendors will be given the opportunity to acquire a factory built trailer. Jody stated that the Planning Commission will need to determine whether these changes are effective immediately or if there will be a gratuity period. She added that a schedule could be developed and discussed with the legal department on how to work out all these details. Jason Jones stated that the Planning Commission has the option of minimizing the carts to 6 months a year. Ms. Santiago explained that this would be a very difficult adjustment. Many vendors base their lives around these businesses and, like a restaurant, it takes time to acquire established customers. Allowing the carts to only be permitted during the summer will jeopardize this. Marti Martinez stated that no business can become solidly established after only 6 months. She stated that she has been at her location for over a year and people know that she is there everyday. She stated that she doesn't understand the concerns regarding the time of year these carts are allowed. Jody clarified that the health department was concerned about freezing pipes and food temperature problems during the winter but since speaking with Ms. Martinez about this matter regarding food temperature problems in the summer as well, another alternative has been offered to the Planning Commission to allow vending carts all year.

Commissioner Jones asked how licensing works with these type of units. Jody explained that the licenses are tied to a specific spot on a site. Vendors are required to fill out a temporary use application that is valid for 6 months. The only requirement is that it must be 20 feet away from the building and the application must be signed and notarized by the property owner. Jack Matheson stated that he is concerned that established restaurant owners may struggle with a food vending cart too near their site. Phil Conder countered by stating that there are no spacing restrictions between restaurants. Commissioner Mills stated that established restaurants may suffer financially, especially if the a taco cart's are there year round. It would be a permanent use and not a temporary one. Commissioner Fuller stated that the Planning Commission requires more deductive reasoning on deciding the number of food vending carts allowed in the city. Jody stated that she could hold a meeting with vending cart owners to gather more ideas and get more opinions on how to solve these problems. Commissioner Conder stated that he is concerned about people being run out of business by these changes to the ordinance. He added that he doesn't mind if the vehicles are enclosed as long as they adhere to the Health and Fire Department standards. He stated allowing the carts to be permitted year round makes more sense, the 500 foot spacing requirement seems

sufficient, and a cap seems necessary but it doesn't need to be so low. Commissioner Fuller stated that the cap problem needs to be resolved and the time frame to allow the current vendors to get their carts into compliance.

There being no further discussion regarding this application, Chairman Woodruff called for a motion.

Motion: Commissioner Fuller moved for continuance to the next public hearing on July 9, 2008

Commissioner Jones seconded the motion.

Roll call vote:

Commissioner Conder	Yes
Commissioner Fuller	Yes
Commissioner Jones	Yes
Commissioner Matheson	Yes
Commissioner Mills	Yes
Chairman Woodruff	Yes

Unanimous - ZT-4-2008– Continued

Chairman Woodruff called for a motion to re-open the hearing.

Motion: Commissioner Conder moved to re-open the hearing

Commissioner Mills seconded the motion.

Roll call vote:

Commissioner Conder	Yes
Commissioner Fuller	Yes
Commissioner Jones	Yes
Commissioner Matheson	Yes
Commissioner Mills	Yes
Chairman Woodruff	Yes

Unanimous - ZT-4-2008– Re-opened

Chairman Woodruff called for a motion.

Motion: Commissioner Fuller moved for continuance to the July 23, 2008 public hearing

Commissioner Jones seconded the motion.

Roll call vote:

Commissioner Conder	Yes
Commissioner Fuller	Yes
Commissioner Jones	Yes

Commissioner Matheson	Yes
Commissioner Mills	Yes
Chairman Woodruff	Yes

Unanimous - ZT-4-2008– Continued

PLANNING COMMISSION PUBLIC HEARING JULY 23, 2008

ZT – 4 -2008

West Valley City

Food vending carts and vehicles

The following application was continued from the June 25, 2008 hearing to allow time for staff to meet with food vending owners and make modifications to the proposed ordinance.

On March 18, 2008 (effective date March 24, 2008) the West Valley City Council enacted a moratorium on food vending carts. This was to allow time for City staff to investigate and examine how these uses impact the City, businesses and property owners and to review and draft applicable standards for food vending carts.

Currently the West Valley City code allows for food vending carts however very little standards apply to these uses. When the Code was first drafted most of the carts that were used were open-air carts and they were not being used year round. Therefore, a time limit was not placed on this use as it was typically self-regulating. However, the trend seems to be going more towards enclosed food carts, which can stay on a site all year round and making the use more permanent and not temporary as was originally intended.

After meeting with the West Valley City Fire Department, Building Inspection Department, Business Licensing, Code Enforcement and the Salt Lake Valley Health Department it was determined that some guidelines are necessary for this use if it is going to continue to be allowed.

Therefore, staff has drafted the attached ordinance for consideration.

Staff Alternatives:

Approval of the suggested amendments to the West Valley City Municipal Code with the following provisions.

Current licensed food vendors that can meet the health and safety requirements of the ordinance shall have the first right of refusal for licenses granted under this ordinance. The cap, spacing and separation requirements would only be applicable to new applications.

Continuance to allow staff more time to draft revisions to the proposed Ordinance

Applicant:
West Valley City

Interpreter:
Nora Clements
West Valley City Treasury

Fire Department:
Carl Andreasen
Donald Slick

Neutral:

Andres Morales
11767 Bluerock Ave.
South Jordan, UT 84091

Neutral:

Maria Santiago
4544 S. 4000 W.
WVC, UT 84120

Neutral:

Marti Martinez
5236 S. Level Dr.
SLC, UT 84118

Discussion: Jody Knapp presented the application. Nora Clements translated for the public from English to Spanish. Terri Mills questioned whether clean-up is included in the hours of operation. Jody replied that everything must be cleaned up by midnight. Commissioner Mills explained that the ordinance should state that carts must be removed by midnight. Jack Matheson asked the Fire Department how often inspections take place. Carl Andreasen, representing West Valley City's Fire Department, explained that there have been a lot of problems contacting the vendors and getting past the language barrier. He added that the carts should ideally be inspected annually. Harold Woodruff questioned if this new process would make things easier. Carl replied that it will definitely help both the vendors and the Fire Department. Chairman Woodruff asked if vendors will be prohibited from operating until they have passed a Fire Department inspection. Jody replied yes and stated that a letter will be sent to the vendors with a list of requirements 30-60 days prior to the inspection so they will have adequate time to prepare. She explained that ideally everyone would then meet at one location where the Health Department, Fire Department, Building Inspection, and Planning and Zoning can review the carts at one time. This will also help with issuing business licenses because everyone will come for review at the same time. Carl agreed that this will also bridge barriers and miscommunication within City departments. Terri Mills questioned what concerns the Fire Department has with converted camp trailers. Carl explained that there are dangerous safety hazards in these food vending vehicles that include problems with hood systems, ventilations, and wiring that is not up to code. He added that aisle spaces in camp trailers are not set up to accommodate evacuation in the event of a fire because the only way out is through the window due to items blocking the door. Carl concluded that there are various other safety concerns from the Fire Department including over loaded extension cords that pose a dangerous fire hazard.

Andres Morales, a concerned vendor, requested that the Planning Commission help vendors find solutions to the problems. He stated that during the winter it is very hard to operate without protection from the elements and prohibiting tarps is a concern. He stated that operating the taco stand is his business and he depends on it for his livelihood. Mr. Morales questioned what type of violation from the Health Department could lead to a closure. Jody Knapp clarified that a violation is something that can be fixed immediately and a closure suggests more serious problems that take time to rectify. Mr. Morales stated that the City has given the vendors a list of rules that they must meet but questioned what is being done to help them adjust to these changes. Jody replied that a lot of these concerns were discussed with other vendors during several other meetings and added that some things are unavoidable, like tarps, for safety reasons. Carl Andreasen sympathized that it does get very cold in the winter but explained that people get overly creative with the way they use their tarps and this creates a fire and safety hazard. He explained a situation where a vendor wrapped a tarp around the taco cart and a vehicle and then left the car running while children sat inside. He added that there are likely tarp configurations that do work but there are so many people that come up with dangerous alternatives that it has become easier to ban them entirely. Mr. Andres replied that he simply needs something around him to protect him from the cold and suggested a

plastic screen of some type. Carl replied that the Fire Department could look at alternative solutions during inspection.

Maria Santiago, one of the existing taco cart vendors, questioned when these changes will be applied. Jody explained that existing vendors will receive a notice and will only need to meet the Health and Fire Department standards. All other requirements, like spacing, will apply to new vendors only. Ms. Santiago replied to some of Mr. Morales comments by stating that his concerns were already addressed by the City and other vendors and added that he should have attended previous meetings if his business was important to him. Ms. Santiago suggested that all vendors must come to the inspection and if they aren't present they should lose their spot. Ms. Santiago questioned who will be doing the inspections and how often. Jody replied that the carts will be enforced with this new ordinance by the Code Enforcement Department and inspections will likely take place by the usual departments at one specific location on a specific date. Ms. Santiago asked who the umbrella is intended for. Jody replied it is for the food vending unit operator. Ms. Santiago clarified that the vendors who pass the inspections will get the 15 spots. She stated that few vendors came to the meeting and few will come to the inspections. She stated that those who don't go to the inspection should be closed automatically. Jody replied that if the vendors do not come, they will not get a license. She added that no new applications will be accepted until the City falls below the cap. Ms. Santiago stated that she didn't understand the definition of coolers in the ordinance or in the meeting held by staff. Jody clarified that stacked simply means that the coolers should be kept together rather than spread out around the site.

Marti Martinez explained that she needs a total of 4 coolers, 2 behind the scene to keep food cool and 2 in the front so customers can prepare tacos and get their drinks. Jody replied that this would be fine because there is a separate requirement for drink coolers. Ms. Martinez stated that she had some concerns with the requirement of smooth sidings inside of the carts and the location of the propane tanks. Carl Andreasen replied that if everything is safe inside, it can be approved. Ms. Martinez stated that she doesn't mind a random check from City and added that vendors know what the new regulations are and it will be their responsibility to uphold these standards. She concluded that she likes the idea of one inspection site on the same day because it will be beneficial for everyone involved.

Phil Conder questioned whether it would be a good idea to include a review from the Fire Department on structures used to protect vendors during the winter. Jody replied that one umbrella is proposed in the ordinance but anything else has been a difficult problem to resolve because it's too subjective to review. She explained that if it's part of the cart, it can't be changed easily. Commissioner Conder asked if distance from the cart is the issue. Jody replied that from the Fire Department's perspective it's the distance and covering the top of the trailer creates a potential for grease fire. She explained that the Health Department is concerned about cleanliness and toxicity. Commissioner Conder suggested a rigid structure mounted somewhere on the trailer that is subject to fire review. Carl explained that this could work quite well because it will provide a wind break. He elaborated that some things, like highly flammable, versatile blue tarps, are completely unacceptable. Carl stated that a non-combustible rigid structure could work if it's built well and is subject to review from the Fire Department. He added that the only problem that happens is that when one item works, other people try to replicate it and there ends up being 10 variations that are unsafe. Jody stated that the 8' x 19' size requirement should stay the same so no one builds a "fortress".

Terri Mills questioned if the Health Department addresses converted camp trailers and the possibility of sleeping and eating in the same unit. Jody replied that this is an issue that hasn't come up but she stated that in most taco carts, the sleeping areas in the trailer have been removed. Carl Andreasen agreed that most have been modified enough that there are no sleeping quarters. Jody stated that allowing only manufactured trailers was too restrictive because there are some converted trailers that still work well. Carl explained that the problem with non-manufactured food trailers is that grease vapors cause problems and without a proper hood system, it creates a fire and safety hazard. Hood systems are very heavy and require a lot of power and incorporating this into a regular camp trailer may render the trailer unsafe. Ms. Santiago stated that she has a suppression system and questioned if she would still need a hood system as well. Carl replied that Ms. Santiago has a trailer that is manufactured for food vending so it already has the proper suppression system needed. Phil Conder asked if each trailer is required to have a fire extinguisher. Jody replied that they are required to have a fire suppression system that comes with nozzles and a fire extinguisher.

Marti Martinez stated that she isn't clear on what a rigid structure might imply in reference to a type of shield during the winter. Carl replied that it's hard to answer that question and stated that it may be wood, metal, etc. The important thing is that it must be something that will not flap in the wind and something that will not create a fire or safety hazard. He stated that anybody wishing to see if something would work could come to the Fire Department and they could look it over and discuss various options. Jody pointed out that this doesn't address the aesthetic issue and that is part of the reason the umbrella is part of the original plan.

Phil Conder stated that there has been a lot of good work and input on this subject from staff and from the community. He questioned whether other meetings had good attendance. Jody replied that most people who attended the other meetings were in the audience for today's public hearing. She stated that everyone will do things differently and that's the hard part of creating a single, unified ordinance. Harold Woodruff replied that the Planning Commission is in agreement with the ordinance and the only real issue is the windbreak concept during the winter. He questioned if the Planning Commission should allow a slight opening for Fire Department review on this particular matter. Commissioner Conder replied that he believes its necessary to leave an opening so that operators can come up with proper solutions and the Fire Department can ensure that everything complies. Carl replied that the Fire Department wants to help these vendors as much as possible and what is being presented isn't perfect but it's the best unified solution anyone could come up with. Jack Matheson questioned if the tarps are not permitted in the ordinance Jody has drafted. Jody replied that they are prohibited. Jack Matheson clarified for the public that a self powered unit is considered mobile and can only stay at one location for a certain period of time. Jody replied that trailers ensure that food temperatures are maintained and everything is clean so they seem to be the best way to go, even if they are a larger investment. Mr. Morales stated that the Health Department requires hot water during the winter and explained that this is very hard to do. Jody replied that hot water is required at all times for hand washing purposes and this is not something that can be adjusted. She stated that other carts have had to find remedies for this problem by installing heat tape or some other alternative. Brent Fuller stated that every vending cart is built differently so it will be hard to address all the problems that may be encountered. He added that an opening should be provided to accommodate adjustments for various situations. He concluded that this is a good start and perhaps staff can review it at a later date to ensure that everything is working properly.

There being no further discussion regarding this application, Chairman Woodruff called for a motion.

Motion: Commissioner Conder moved for approval subject to the staff alternative as well as the following conditions:

1. Food vending carts shall be permitted to operate from 7:00 a.m. to 12:00 a.m. All carts must be closed and cleaned by 12:00 a.m. (midnight)
2. If any modification is necessary after this new ordinance is tested and applied it should return to Planning Commission

Commissioner Matheson seconded the motion.

Roll call vote:

Commissioner Conder	Yes
Commissioner Fuller	No
Commissioner Matheson	Yes
Commissioner Mills	Yes
Chairman Woodruff	Yes

Unanimous - ZT-4-2008– Approved